

MT LEGISLATIVE HISTORY

Chapter 287 19 74

Bill H 193 S _____

Original bill & hist. C

H. Committee on 1973 Loc. Gov. t.

S. Committee on Tax

Hearing Date(s) ~~1/26/73~~ _____ C

Hearing Date(s) 1/19/74 _____ C

1/26/73 _____ C

1/29/74 _____ C

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1/31/74 _____ C

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2/26/74 _____ C

Date Out _____ C

2/28/74 _____ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

Local Government COMMITTEE

42nd Legislative Assembly

Bill No.	Subject Matter	Date In	Hearing Date	Comments	Date Out	Committee Action	Final Action
HB 154	authorizing government units to charge tax exempt entities for services supplied for the benefit of entities	1/17/73	1/22/73		1/22/73	do not pass	Killed in Committee
HB 156	excluding the levies for police funds and fireman's disability and pension funds	1/17/73	1/22/73		1/22/73	do not pass	Indefinitely Postponed
HB 189	Deleting the limitation of seven dollars per unit user per year	1/18/73	2/12/73		2/14	Be Held over until 1974	Held over
HB 193	Authorizing self-liquidation of costs of urban renewal projects	1/18/73	1/26		1/26	do pass	
HB 196	Permitting the board of county commissioners to hire administrative assistants	1/18/73	1/26		1/26	do pass	
HB 199	permitting consolidation of police departments and sheriffs' offices within a county	1/18/73	2/7		2/9	do pass as amended	

January 26, 1973
Proceedings of the
Local Government Committee

The meeting was called to order at 8:00 by Chairman Kosen. The secretary called roll: Absent was Representative Cox.

HOUSE BILL 193: Chief sponsor was Representative Fagg. Proponents were Harold Fyslie, City of Bozeman, Dan Mizner, League of City and Towns, Walter Anderson, City of Helena, and Polly Prchal. There were no opponents. The committee gave the bill a unanimous do pass.

HOUSE BILL 164: Chief sponsor was Representative McKittrick. The proponents were Dale Shaalure, and Dean Zinnicker, Montana Association of County Commissioners. There were no opponents. The committee gave the bill a unanimous do pass as amended.

HOUSE BILL 213: Chief sponsor was Representative Turman. The committee at the request of Representative Turman passed action on this bill.

HOUSE BILL 196: Chief sponsor was Representative Turman. Proponents were John St. Jermaine, Cascade County, Dale Shaalure and Dean Zinnicker, Montana Association of County Commissioners. There were no opponents. The committee gave the bill a unanimous do pass.

HOUSE BILL 324: Chief sponsor was Representative Zimmer. Proponents were Dave Fisher, Montana State Fireman's Association and R.A.E., Montana State Volunteer Fireman's Association. There were no opponents. The committee gave the bill a unanimous do pass.

HOUSE BILL 236: Chief sponsor was Representative Lucas. There were no opponents of proponents. The committee gave the bill a unanimous do pass.

HOUSE BILL 149: Chief sponsor was Robert Harper. The committee at the request of Representative Harper passed action on the bill for the day.

HOUSE BILL 275: Chief sponsor was Representative Flynn. Proponents were Bill Cunningham, A.G. Slattery, Montana Conservation District and Peter Jackson, Madison Conservation District. There were no opponents. The committee decided in executive session to pass the bill for the day.

COMMITTEE ON TAXATION

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
20	HS	1/23	1/29						1/29
2	HS	1/12	1/12						1/12
18	HO	1/22	1/22						1/22
14	HO	1/22	3/3					2/16	
102	HO	1/22	1/22						1/22
113	HO	1/19	2/26					2/28	
211	3/12	3/13	3/13				3/13		
212	1/28	2/12	2/14				2/14		
213	1/28	2/12	2/14					2/14	
405	3/12	3/13	3/15				3/15		
412	3/8	3/12	3/12						3/12
448	2/20	2/26 3/5	3/5				3/5		
460	3/12	3/14	3/14				3/14		
449	HO	1/15	1/15					1/15	
417	HO	1/19	1/19						1/19
427	3/12	3/13	3/14				3/14		

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

January 19, 1974

The fourth meeting of the Taxation Committee was called to order by Chairman Nees on the above date in Room 415 of the State Capitol Building at 8:05 a.m.

ROLL CALL: All members were present.

The following witnesses were present to testify:

Dennis Burr	Department of Revenue	
R. Bruce McGinnis	"	
John Radonich	City of Anaconda	
Eddie Gallagher	"	
Larry Gallagher	City of Helena	
Morley Cooper	State Tax Appeal Board	
Ray Wayrynen	"	
Vern Miller	"	
Helen M. Peterson	"	
Charles Smith	"	- Attorney
John D. Toole	City of Missoula	
Keith Keller	League of Cities	
Dan Mizner	"	
Harley Warner	Helena City Commission	
Dean Zinnecker	Mont. Ass'n. of Counties	
P. F. Hoods	Mont. Coal Council	
H. Schoofel	City of Billings	
Polly Prchal	"	
Joe Brand	Self	
Gene Phillips	Decker Coal Co.	

Chairman Nees opened the meeting and said since a number of the scheduled bills had been heard in committee, he asked that testimony be kept as brief as possible.

CONSIDERATION OF HOUSE BILL 192: Representative Brandt spoke very briefly on his bill, stating that this legislation would affect very few veterans and loss of tax revenue through the exemptions would be minimal. Chairman Nees asked for opposition to the bill and there being none, the committee moved on to the next bill.

CONSIDERATION OF HOUSE BILL 193: Representative Fagg gave testimony regarding his bill and distributed some material concerning the bill, testimony he felt explained the bill, its purpose and hoped-for results, should the legislation be enacted. He pointed out that certain areas in cities depreciate in value and therefore it is necessary to redevelop the area to bring the taxable value up again. The new portion of taxes, on the improved properties, would go to the cities to help pay for the razing of the low tax-base properties.

Proponents of the bill included also John Toole, Mayor of Missoula, who thought the bill was a solution to problems of the cities. Other proponents included Mr. Mizner, who stated he thought the bill was an

enticement for private industry, business, to come in and build. Testifying also as proponents were Mr. Gallagher from Helena and Mr. Schoenfel and Ms. Prchal both of Billings; Ed Gallagher and John Radonich, both of Anaconda; Mr. McConey of Butte; Keith Keller of Helena.

Members of the committee asked a number of questions of those testifying involving method of financing such renewal costs and concluded that further study be made of this bill. Chairman Nees asked for further testimony from opponents of the bill.

Senator McKeon moved that HOUSE BILL 193 be placed in a SUB-COMMITTEE. Senator Mathers seconded the motion; motion carried.

After a brief discussion on House Bill 517, a hold-over bill and previously heard, Senator Mathers moved that HOUSE BILL 517 BE NOT CONCURRED IN. Senator Turnage seconded the motion; motion carried.

CONSIDERATION OF SENATE BILL 551: Senator McGowan, author of the bill, said the bill was merely to clarify a tax classification and would involve no change in the law. Mr. Burr of the Department of Revenue also urged passage of the bill.

Senator McKeon moved SENATE BILL 551 DO PASS. Senator Mathers seconded the motion; motion carried.

CONSIDERATION OF SENATE BILL 552: Senator McGowan, author, explained his bill which concerns reimbursement to the Tax Appeal Board members for expense incurred in attending tax hearings and also would require counties to provide a meeting place for tax hearings and foot the cost of a written record of those proceedings. Mr. Wayrynen spoke in support of the bill, saying money is available at present to pay expenses of board members who have attended such hearings and the bill would allow those claims to be paid.

At this point in the meeting Senators Manning, Mathers and Klindt asked to be excused to attend other committee meetings.

Chairman Nees asked for questions from the committee on the bill. Dean Zinnecker of the Association of Counties spoke, saying the association was in favor of several of the amendments proposed by Mr. Wayrynen, but stated the association's objections to a number of the proposals. There was discussion between members of the committee and representatives of the STAB. Testimony also heard from Helen Peterson of the STAB. Mr. Miller distributed copies of the proposed amendments (copy attached). Mr. Burr and Mr. McGinnis of the Department of Revenue also discussed several aspects of the bill.

Chairman Nees questioned the committee as to what they wished to do regarding the bill and Senator McGowan moved SENATE BILL 552 be placed in a SUB-COMMITTEE. Senator Broeder seconded the motion; the motion carried.

CONSIDERATION OF SENATE BILL 599: Senator Turnage, author of the bill, introduced it and following this, the committee heard from Mr. Wayrynen and Charles Smith of the STAB. Morley Cooper of the STAB also spoke briefly regarding the bill.

Chairman Nees asked for opposition or further discussion of the bill and members of the committee requested the bill be deferred for action until a later date.

Chairman Nees appointed the following committee members to the previously-mentioned Sub-Committees:

HOUSE BILL 193	Senator McKeon
	" Bennett
	" Turnage

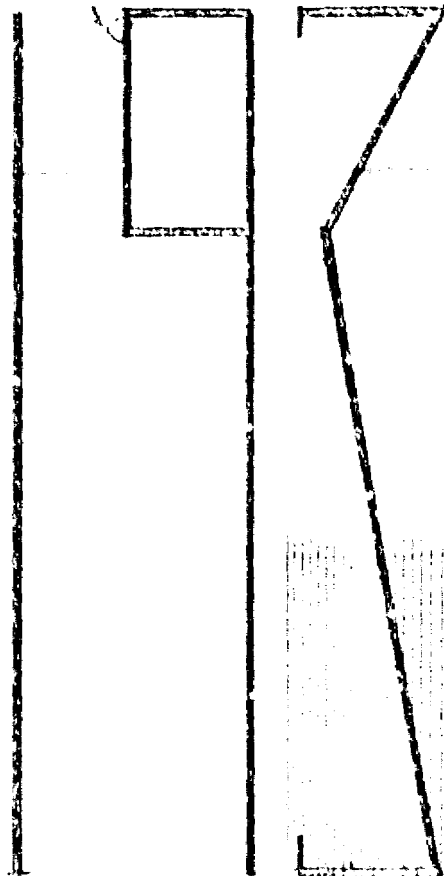
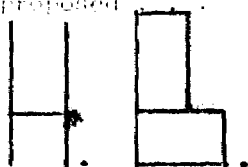
SENATE BILL 552	Senator McGowan
	" Bennett
	" Vainio

Due to the lengthy testimony on several of the bills, action and discussion on House Bill 56 was deferred.

ADJOURNMENT: There being no further business, Senator Broeder moved the meeting adjourn; motion seconded by Senator Mathers and motion was carried.


~~STANLEY NEES~~ CHAIRMAN

A simplified
explanation of
the operation
of the tax
increment system
of taxation
under the
proposed

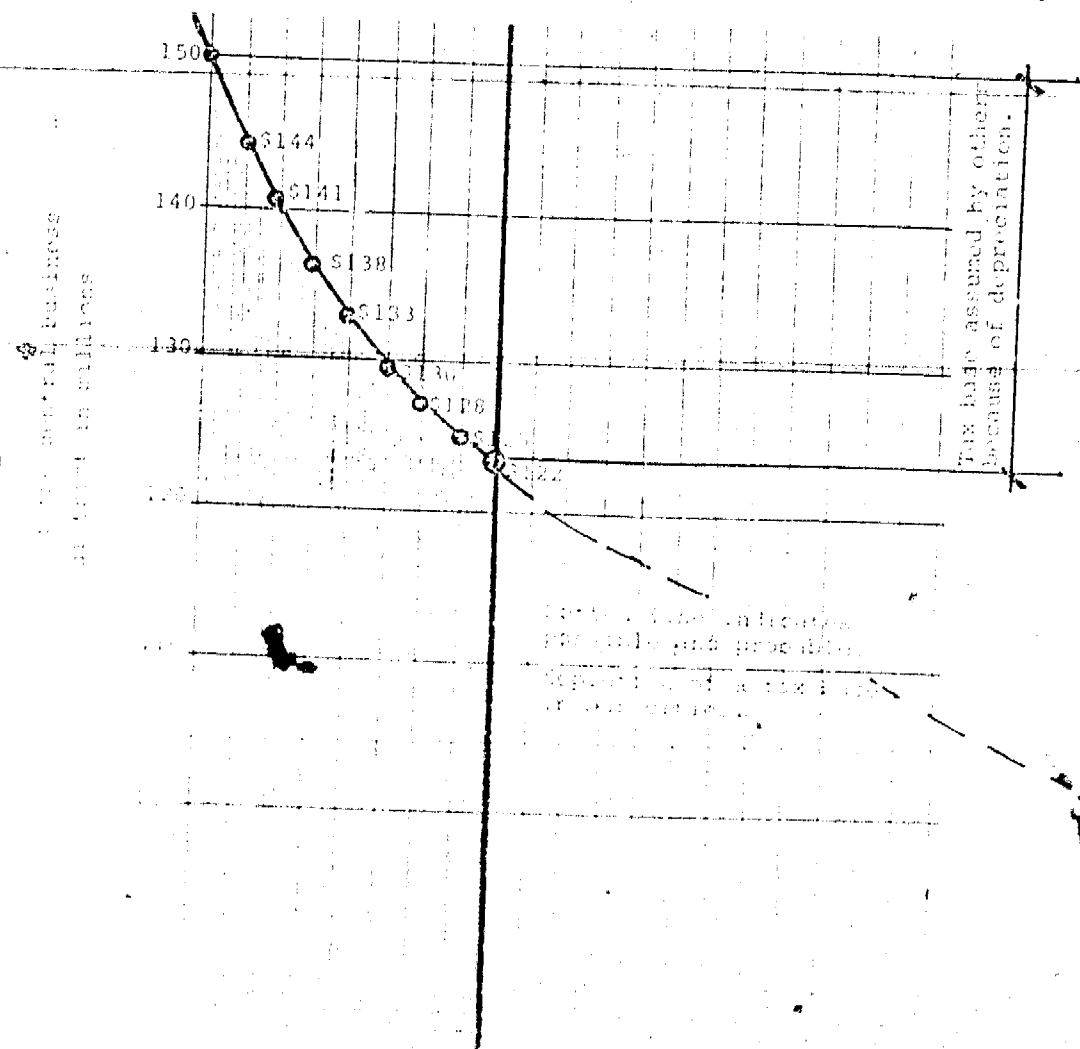


INTRODUCTION

As cities grow old they tend to depreciate. While some factors such as inflation, new construction, etc., tend to offset the trend, the city center does tend to move and, as it does, it leaves behind a city core which tends to become a slum or blighted area. Most cities in the past have contracted this thrust with new construction. However, the automobile, the shopping center, and rural living is stopping this trend. Hence, the center of the city, or herein after referred as the central business district, are becoming in greater and greater need for stimulation and financial help. In many of our Montana cities buildings are being abandoned for taxes; others which are not being abandoned are receiving a greatly reduced tax base and finally many are simply being torn down to save the owner taxes.

Obviously this pattern, if allowed to continue, will erode away the tax base of the city. House Bill No 103 was designed to stop this deterioration and now is even sure in need to supplement the lack of federal urban renewal funds. Therefore, the renewal schematic presentation was made to show how the passage of House Bill No. 103 will aid and greatly revitalize the blighted areas of our Montana cities.

The diagram shows a rectangular area representing a city. A diagonal line with an arrow pointing towards the top-left corner is labeled "growth direction". A horizontal line on the left side is labeled "approximate existing city limits". Inside the rectangle, there is a smaller rectangle labeled "existing central business district". Below and to the right of this is a hatched rectangle labeled "typical renewal district". To the right of the hatched rectangle is a cross-hatched area labeled "residential area". A line points from the text "residential" to this cross-hatched area. Another line points from the text "central city" to the right edge of the main rectangle.



Typical
renewal
district
enlarged
from
typical city
shown
in
Diagram I

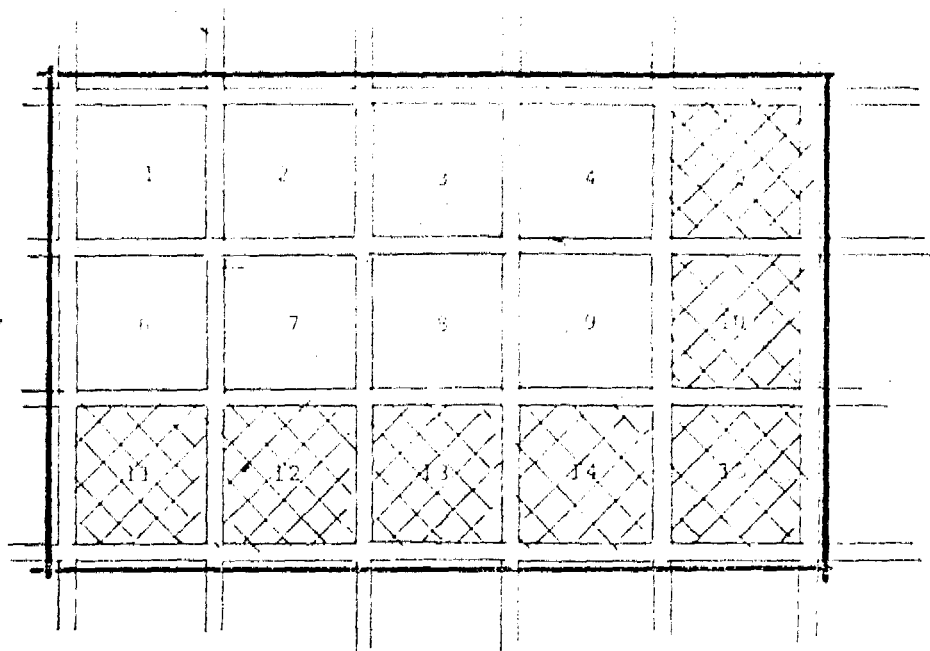


DIAGRAM III

To compensate for this growth many of our cities are now developing renewal districts as shown above. As an example, a district can be set up as in this case, a 15 square block unit, 7 blocks of deteriorated residential and 8 blocks of commercial which has started to deteriorate. This can and is being done under existing law through action of the city council. However, simply setting up a district does in no way replace the decayed area, nor does it provide additional tax base necessary to replace income loss to the city as shown on Diagram II.

To provide the revenue to replace and redevelop the district was and still is the purpose of House Bill No. 123. Its operation in schematic design follows:

Proposed Redevelopment Costs

Needed Improvements

Area clearance	\$ 500,000.00
Gravel-surface matter	100,000.00
City park	250,000.00
Public storage	1,000,000.00
City hall	1,500,000.00
Police	200,000.00
Total improvements	\$3,550,000.00

Revenue to be obtained for 20 years return
on investment of \$3,550,000.00 per year.

The developed area would then schematically be as follows with the addition of the apartment house in Block 1, and the high rise office building in Block 5 being done through private enterprise and directly motivated through the development of the city facilities.

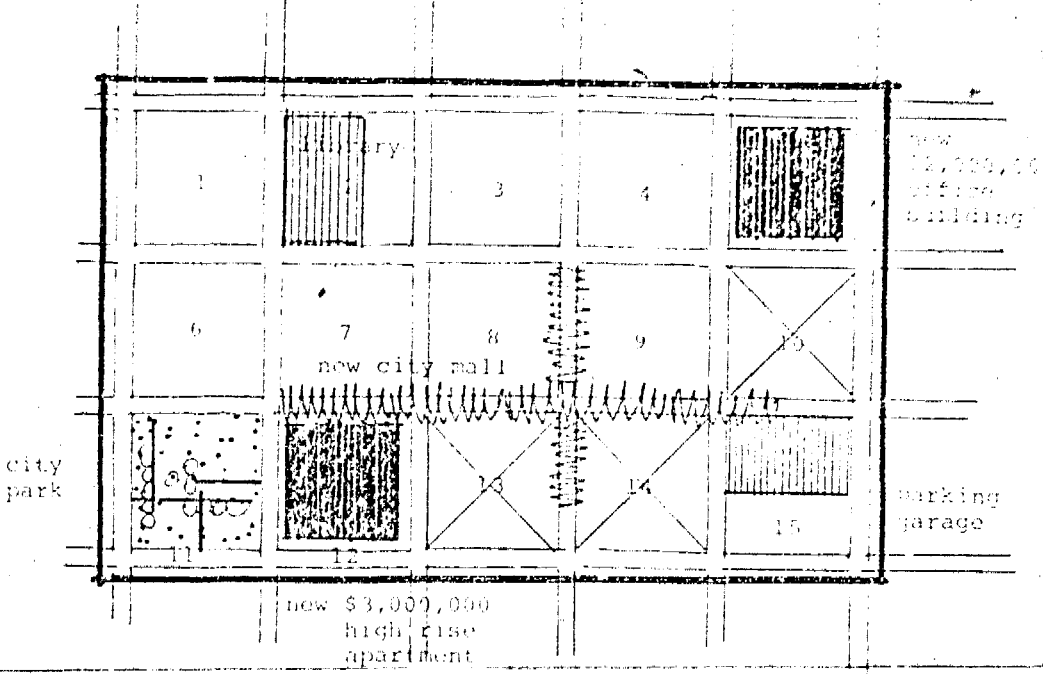


DIAGRAM III

House Bill No. 193 -- New tax source is as follows:

House	House	House	House	House	House	House	House
\$10,000	\$10,000	\$10,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
House	House	House	House	House	House	House	House
\$10,000	\$10,000	\$10,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
House	House	House	House	House	House	House	House
\$10,000	\$10,000	\$10,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
House	House	House	House	House	House	House	House
\$10,000	\$10,000	\$10,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000

DIAGRAM IV

total value prior to	total value prior to
taxes \$10,000	taxes \$10,000
total value after	total value after
taxes \$10,000	taxes \$10,000
total value after	total value after
taxes \$10,000	taxes \$10,000

NEW TAXES - RENEWAL DISTRICT

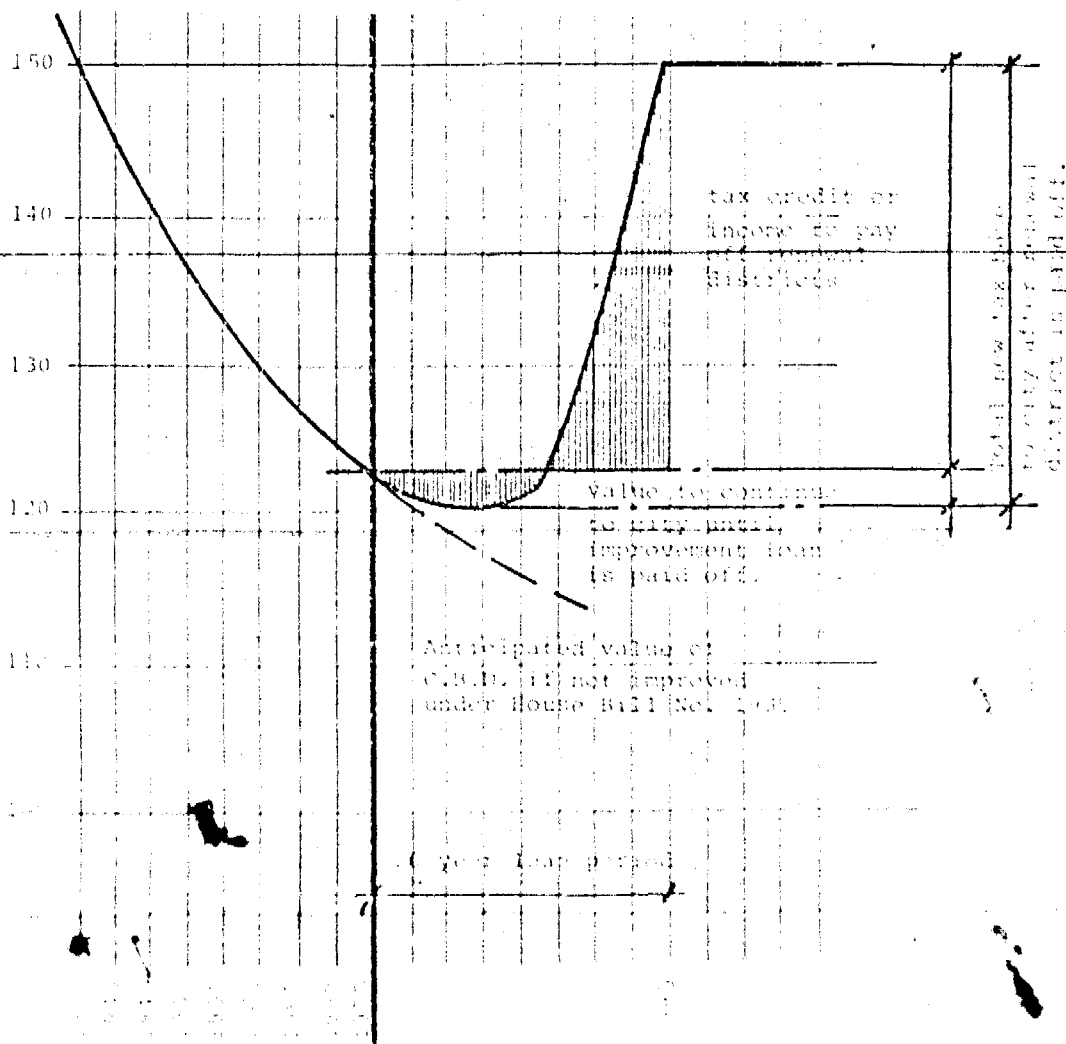
New taxes = \$4,336,10.00 new market value
 -40% = 2,910,160.00 or appraised value
 -30% = 2,937,000.00 or taxable value

Being Helena mill levy of 277.73 mills equal
 new or additional tax of \$12,573.00.

Under House Bill No. 193 then the following as illustrated on
 Diagram V would occur:

1. At start of demolition the base tax of \$5,000.00
 per year would be paid until new improved value would exceed
 the original \$5,000.00 per year.
2. When the value of the original taxes or \$3,937.00
 was exceeded, the new taxes would revert to the renewal district
 and the original \$5,000.00 tax continue into the city central
 fund.
3. When the improvement was paid for, the entire new
 tax would then go into the general fund.

Millions of Central Business District



House Bill #193 "An act authorizing self-liquidation of costs of urban renewal projects;

and amending section 11-3910, R.C.M. 1947."

In explanation of this bill, it is pertinent to consider the last phrase of the title of this bill: The section of the law referred to is Chapter 39, "Urban Renewal Law" which prescribes every step that must be taken before any municipality can venture into an urban renewal project. Briefly, the steps are:

- (1) prove that a need exists
- (2) the governing body must approve, by resolution, that the need does exist
- (3) formulate an urban renewal plan that includes a budget
- (4) the plan is submitted for review to the planning commission
- (5) arrange for a public hearing on the plan
- (6) approval of the plan by the governing body
- (7) the taxpayers must approve the plan by referendum voting

It must be noted that in no way does House Bill #193 change any of the procedures that Sections 11-3901 through 11-3909 have delineated.

In reference to Section 11-3910, which House Bill #193 would amend to enable a municipality to have another source of possible funding of urban renewal projects, this would be similar to a special improvement district. That area designated for an urban renewal project would be paid for by those property owners who would receive the benefits of the project.

Furthermore, at no time during the project construction is the property lost from the tax rolls. All governing bodies which have received tax revenues from the property would continue to do so while the project was in progress.

lation would increase their taxes by a considerable amount. He said they could support the amendment or they would have to fight the bill. Mr. Phillips was in support of testimony presented by Mr. Corette.

Senator Turnage quoted from the Montana Codes and questioned some of the amendments as introduced by Mr. Corette. Chairman Nees asked for further comment on the bill and there being none, testimony was concluded. He called for further study of the bill and said action would be deferred to a later date on SB567.

Chairman Nees next called on Rosemary Zion, Researcher with the Legislative Council, who had done research and gave her report on House Bill 193, the Urban Renewal Plan, as proposed by Representative Fagg. Miss Zion's report was most comprehensive and she was complimented by the committee.

Following her report Chairman Nees stated that SB595, scheduled to be heard today also, would be heard at a future date, when Senator Graham would be able to present his bill.

DISPOSITION: Senator Turnage moved that SENATE BILL 657 DO NOT PASS. The motion was seconded by Senator McOmber and the motion was carried.

ADJOURN: Chairman Nees asked for a motion to adjourn and the motion was made by Senator Turnage, seconded by Senator Mathers; the motion carried.


STANLEY NEES CHAIRMAN

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

January 31, 1974

The tenth meeting of the Taxation Committee was called to order by Chairman Nees on the above date in Room 415 of the State Capitol Building at 8:10 a.m.

ROLL CALL: All committee members were present with the exception of Senator Vainio.

The following witnesses were present to testify:

Clyde Logan	Sam Gary
Jack Rehberg	Montana Petroleum Ass'n.
Vernon Miller	STAB
Bob Corette	Montana Power Co.
Lester H. Loble II	Montana Dakota Utilities
Dennis Burr	Department of Revenue
Wm. Groff	"

Chairman Nees announced that the two bills listed for hearing today, Senate Bills 686 and 701, would have to be carried over until a later date. Those interested in SB686 stated they had ~~not had sufficient time to study the bill and present their testimony~~, and Senator Vainio, author of SB701, was unable to attend the meeting to present his bill.

Copies of the report on the Urban Renewal Plan, as written and compiled by Rosemary Zion, Staff Attorney with the Legislative Council, were distributed to the members. The report was the result of research into House Bill 193 which is still in the committee. There followed some discussion on this bill and the report.

Discussion also continued on the possibility of sending several bills to other committees, and Chairman Nees stated he would contact these committees to determine if they would be able to accept the bills.

Mr. Burr distributed copies of several proposed amendments to Senate Bill 665. There followed a discussion by the committee members concerning the bill and the amendments. Several of the members questioned Mr. Burr and Mr. Groff regarding the bill and it was brought out that the cost to administer the program for tax refunds, would be approximately \$200,000, however members asked if this was not a conservative estimate. They also mentioned ways by which a taxpayer might get a full tax refund by transferring title to the property. There then followed a general discussion on other tax bills presently in sub-committee.

ADJOURN: Chairman Nees then asked for adjournment motion and it was seconded by Senator Turnage, seconded by Senator W. A. H. motion carried.

Nees
STANLEY NEES

CHAIRMAN

Financing Urban Renewal Under Title 11, Chapter 39, R.C.M., 1947

Urban Renewal Powers of a Municipality

28193

Under the existing provisions of Title 11, Chapter 39, R.C.M. 1947, the local governing body of a municipality (i.e., the city government) is given broad powers to administer urban renewal programs. It is not the purpose of this memorandum to detail all the procedures by which an urban renewal area is designated nor the basic urban renewal plan approved. It is sufficient to note that the area involved must be found to be blighted within the meaning of Sections 11-3901 (b) and 11-3902. The particular urban renewal plan can be approved by the local governing body only after a public hearing (Section 11-3906 [c]). If the plan or any later modification of it involves financing by means of general obligation bonds or by revenue bonds as provided in the general municipal revenue bond provisions of the revised codes, then the plan and the bond issue must be submitted to the voters for approval (Section 11-3906 [g]).

Once the urban renewal plan is approved, the municipality has considerable power with respect to the urban renewal area. Section 11-3906 (f) provides that once the plan is approved, "the provisions of the urban renewal plan with respect to the future use and building requirements applicable to the property covered by said plan shall be controlling with respect thereto." Thus, the use to which all the property covered by the plan will be put is controlled by the urban renewal plan as approved by the

local governing body and administered by the urban renewal agency, if such an agency has been established. This administration, of course, must be consistent with the plan as approved.

Section 11-3907 provides that "every municipality shall have all of the powers necessary or convenient" to implement the urban renewal plan. These powers include the power to borrow money from state, county or federal sources and from public or private sources. The municipality may also make necessary expenditures, levy taxes and assessments consistent with state law, acquire property by negotiation or eminent domain, clear, improve or prepare the property, arrange streets, plan or zone any area, and coordinate its activities with or through the urban renewal agency. (Section 11-3907)

Once a municipality has acquired land for urban renewal, it is supposed to dispose of the land as soon as possible. Section 11-3909 (a) provides that a municipality may "sell, lease, or otherwise transfer real property or any interest therein acquired by it for an urban renewal project..." Thus, the municipality is not required to sell the land, but may dispose of it by less permanent means. If the municipality chooses to retain the real property, it may use it, under Section 11-3909 (a) only for such public purposes as streets, parks, play grounds, education, public transportation, health,

safety, government administration, civic centers or similar public purposes.

The restrictions on the use of urban renewal property by the municipality are, however, modified to some degree by the provision of Section 11-3909 (c). This subsection provides that a municipality may "operate and maintain real property acquired in an urban renewal area pending the disposition of the property for redevelopment" without being limited to the public improvement uses described above and even though the purposes for which the property is used do not conform with the urban renewal plan. The period of time in which property may be so operated and maintained may be extended by the municipality for up to three years, upon public hearing. No judicial interpretation of this section has yet been made, but the language does not give the municipality any power to actually engage in commercial development. It may "operate and maintain" the property, but the section does not give it the power to develop it.

The power of a municipality to commercially develop real property which it is holding pursuant to an urban renewal plan is created by Section 11-3907 (d). This section permits a municipality to "improve, clear or prepare for redevelopment" any property which it has acquired pursuant to the urban renewal plan. The words "improve" and "prepare" as they appear

in this Act have not yet been interpreted by the courts. Conceivably, however, they could be interpreted to mean that the municipality has the power to build such complexes as shopping centers on urban renewal land and to dispose of the property by leasing the facilities of the shopping center to private entities. Taken together, Sections 11-3907 and 11-3909 give a municipality the power to acquire property in the urban renewal area by negotiation or eminent domain (11-3907 [c], [h]), to improve it and prepare it for redevelopment (11-3907 [c]), to operate and maintain it for up to three years (11-3909 [e]) and to sell it or to lease it to commercial interests (11-3909 [a]). This combination of powers would appear to permit a municipality to build such a complex as a shopping center and to lease the facilities so created.

One limitation on the power of a municipality to undertake the type of development described above is the requirement of Section 11-3903 that "[a] municipality to the greatest extent it determines to be feasible in carrying out the provisions of this act, shall afford maximum opportunity, consistent with the sound needs of the municipality as a whole, to the rehabilitation or redevelopment of the urban renewal area by private enterprise". It appears from this provision that a municipality cannot undertake any redevelopment which could be done as well by private enterprise. There is presently no case law interpreting this provision or relating it to the powers of the municipality described above.

URBAN RENEWAL BONDS

Section 11-3910 of the urban renewal law gives a municipality the power to issue bonds "in its discretion to finance the undertaking of any urban renewal project." Thus, any urban renewal project permitted by the provisions of sections 11-3907 and 11-3909 as described above could be financed by such bonds. The urban renewal bonds may be authorized by resolution or ordinance of the local governing body. No election either in the municipality or in the urban renewal area is required for bonds issued under this section (11-3910(c)).

The terms of urban renewal bonds, with the exception of the maximum interest rate, which is set by section 79-2602, are to be set by the resolution creating them or by any trust indenture or mortgage issued pursuant thereto. Thus the bonds may be secured (11-3910(c)).

Bonds issued pursuant to section 11-3910 are not a pledge of the general credit of the municipality, and are payable solely from "the income, proceeds, revenues and funds of the municipality derived from, or held in connection with its undertaking and carrying out of urban renewal projects under this act." In addition the bonds may be secured by a pledge from the federal government or any other grant. (11-3910(a)). Except for the provisions to be discussed later in this memorandum, therefore, tax money cannot be used to pay the bonds. Clearly no tax could be levied against the whole municipality to pay the bonds. But neither can any tax be levied against the urban renewal area. A similar statute was construed in *Humphrey v. City of Phoenix*, 102 F.2d 82 (1940).

In that case the court stated that municipal bonds issued under a housing redevelopment statute and which were "payable solely from the revenue of an independent revenue-producing asset or utility" were not payable from taxes. p-87

The bonds provided for in section 11-3910 are generically revenue bonds. According to 64 American Jurisprudence 2nd, Public Securities and Obligations:

"Revenue bonds are not general obligations of the issuer, but constitute a pledge of specified revenue of the issuer, usually the revenue of a particular project or facility which is acquired or constructed, extended or maintained or repaired with the funds derived from sale of the particular bonds." Id, §13, pp 34, 35

"The statutes under which the bonds are issued, and the terms and conditions of the bonds themselves state clearly that they are payable solely from the income, revenue or proceeds of the enterprise or project to acquire which they were issued. Hence, they are bonds payable from a special fund, are not the general obligations of the issuing public body, and are not payable from its general resources raised by taxation. Such bonds, payable from special non-tax funds, and especially if they are payable only from the revenue of the particular improvement to be acquired, constructed or operated with the proceeds of such bond issue, are held under the "special fund doctrine " not to create an indebtedness of the issuing body within the meaning of debt limitation provisions. Id, §420, pp 443, 447.

Revenue bonds such as those authorized by section 11-3910, payable solely from a special funds, should be distinguished from

special improvement bonds, which are payable from funds raised by levying special assessments against property owners who benefit by the improvement. No such special levy is authorized to pay for bonds issued under section 11-3910. The sources of funds specified in that section are the only sources of payment to which bond holders may look. 64 American Jurisprudence 2d, Public Securities and Obligations, §13, p35

Under the above interpretation, bonds issued under section 11-3910 could be paid with the proceeds realized from selling urban renewal property, leasing it, charging for public services, and from grants received for the use of the urban renewal project. No special assessments can be made, however to pay the bonds.

Remedies of Bondholders

In case of a default of urban renewal bonds, bondholders have only certain remedies. Section 11-3912 provides that all property of a municipality, including funds held by it for purposes of the urban renewal laws is exempt from execution, levy and sale and that no judgment against the municipality can be a charge or lien on the property. The section does not, however, prevent an obligee (i.e. a bondholder) from pursuing any remedies to enforce any pledge or lien which the municipality has given on its urban renewal rents, fees, grants or revenues. Thus, if urban renewal bonds issued pursuant to section 11-3910 are secured by the rents, profits, revenues, etc. of the urban renewal project or a particular urban renewal project, the bondholder can enforce his security interest by obtaining a lien on such rents, profits, revenues, etc., if the bonds are in default. Bondholders are given no authority, however, to obtain a lien on the real property itself, either that belonging to the municipality or that belonging to private entities. "The statute is the measure of the bondholder's rights" (Meyer v San Francisco, 88P 722, 725). In this case the statute does not provide for a lien on any real property but it does allow the bondholder to legally establish his claim and to enforce any security interests he may have in revenue realized from the urban renewal project.

If revenue bonds such as those authorized by section 11-3910 are in default or if the revenues which are earmarked to pay them are in danger of being diverted, bondholders may seek injunctive relief to establish their claim and to direct the proper authorities to use the revenues. But they may not require the city to levy taxes or to fix the rates. City of San Francisco v. ... 1951 10 Cal. 2d 143.

Provision is made in the urban renewal laws for the municipality to secure urban renewal bonds by an agreement with the federal government that prior to maturity, the federal government will lend to the issuing municipality sufficient sums when added to the designated sums already available, to pay the principal of the bonds with interest to maturity. Secured in this fashion, the bonds are a suitable investment for banks, savings and loan institutions, insurance companies, executors, trustees and other fiduciaries. (Section 11-3911). Holders of bonds secured in this fashion, in addition to other remedies, can enforce their third party beneficiary rights under the agreements between the issuing municipality and the federal government.

Tax revenues for urban renewal bonds --House Bill 193

The present urban renewal law contains a provision that taxes received from an urban renewal area over and above the average taxes received for the five year period before the municipality acquired the property may also be used to pay urban renewal bonds (Section 11-3910 (e)).

Evidently this section has proved unworkable for the municipalities since it is tied to taxes, not assessed value, and does not contain much detailed language (see memorandum from the League of Cities and Towns to Dan Mitzner, dated January 21, 1974, p-3).

House Bill 193 attempts to correct difficulties posed by present section 11-3910 (e) by deleting that subsection and creating instead a new section which sets out in much greater detail the procedure for using excess property taxes attributable to urban redevelopment to pay the principal and interest of urban renewal bonds issued pursuant to Section 11-3910.

The bill provides that an urban renewal plan may contain or be amended to contain a provision requiring the allocation of certain taxes levied by any state, county, city or other taxing body against the taxable property in an urban renewal area to a special fund. This special fund will be used to pay the principal and interest on loans, advances and debts incurred by the urban renewal agency to

finance the urban renewal project in whole or in part. The fund specifically may be used to pay the principal and interest on urban renewal bonds authorized by Section 11-3910.

The tax moneys allocated to the special fund are the excess over and above that portion of the taxes produced by the tax levies on the assessed value of the taxable property in the urban renewal area as shown on the assessment rolls, prior to the effective date of the urban renewal plan. No tax moneys can be so allocated until the total assessed value of taxable property in the urban renewal area is greater than it was before the effective date of the urban renewal project. Thus, only those tax moneys attributed to an increase in the assessed value of taxable property within the urban renewal area since the commencement of the urban renewal project may be used to pay the costs of indebtedness incurred in the urban renewal process.

This act would allow taxing units to continue to receive all taxes at the pre-urban renewal level but would not allow them to receive additional tax money attributable to urban renewal until the debts incurred in urban renewal are paid. Any moneys in the special fund remaining unexpended after the principal and interest on any loans, indebtedness, advances or bonds have been paid would be returned on a pro rata basis to the taxing units from whom they were derived.

House Bill 193 does not permit any taxing body to increase tax levies in order to pay urban renewal bonds or any other urban renewal indebtedness nor does it authorize any bond holder to demand any increase in taxes. It merely provides that when taxes are levied in the usual manner the increase in moneys received attributable to

increased property values under urban renewal may be used to pay the cost of urban renewal. Except for providing one more source of payment for urban renewal bonds, the bill neither augments nor restricts the powers of municipalities under the urban renewal laws as described previously in this memorandum.

Rosemary B. Zion
Staff Attorney, Legislative Council
January 29, 1974

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 26, 1974

The twenty-first meeting of the Taxation Committee was called to order by Chairman Nees on the above date in Room 415 of the State Capital Building at 8:10 a.m.

ROLL CALL: Committee members absent from the meeting included Senators McKeon, Brooder, Manning and Vainio.

The following witnesses were present to testify:

Bruce McGinnis	Department of Revenue
Wm. Groff	"
A. G. Slattery	"
Senator Jack McDonald	District 13
Jack Gunderson	Rep., Dist. 13
W. Edland	" Dist. 4
R. Prevost	" Dist. 3
H. Fagg	" Dist. 8
Dan Mizner	Mont. League of Cities & Towns

Chairman Nees opened the meeting by asking Senator Bennett the results of the Sub-Committee's work on House Bill 193. Senator Bennett discussed a number of amendments that had been made to the bill, to make it acceptable to committee members who had objected to the fact that it was not specified in the bill that only city taxes would be frozen. Senator Bennett stated with the proposed amendments the intent of the bill now is to limit freezing of taxes to the cities only, and only to those cities that elect to use the all-purpose levy. Senator Bennett made note of the fact that one new downtown Helena business pays more in taxes, following the renewal project that had taken place there, than one entire area of several blocks located nearby in an area where no renewal work had been done.

Mr. Mizner also spoke regarding this bill and stated there are many vacant lots in downtown areas in cities throughout the state, and HB193 would make it possible to again make these areas productive, tax-wise.

Sen. Bennett said he hoped to have the amendments ready for committee action on Friday.

Chairman Nees then asked the committee if they wished to take any action on HB884 which was heard Saturday.

DISPOSITION: Senator Klindt MOVED HOUSE BILL 884 BE NOT CONSIDERED IN. Motion was seconded by Senator Mathers and a roll call vote was taken which resulted in a vote of 6 "Yes" and 0 "No".
Copy of vote attached.

CONSIDERATION OF HOUSE BILL 448: Representative Fagg, chief sponsor of the bill, said the bill was introduced at the request of feed lot operators and he said cattle growers were also in accord with the bill. He said in many cases cattle are being taxed twice, once by the county assessors, and again when they are taken to the feed lots. The lot operator must pay a tax on each head and

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 28, 1974

The twenty-second meeting the Taxation Committee was called to order by Chairman Nees on the above date in Room 415 of the State Capitol at 8:12 a.m.

ROLL CALL: All members were present with the exception of Senators McKeon, Broeder and Manning.

Witnesses present included representatives of the Department of Revenue and the bill sponsors, Representatives Hodges and Towe.

Chairman Nees first asked Senator Bennett if the Sub-Committee on House Bill 193 had completed their amendments to the bill and Senator Bennett presented these proposed changes. Members looked through the amendments, agreeing they made the bill more acceptable.

DISPOSITION: Senator Bennett MOVED TO ADOPT AMENDMENTS TO HOUSE BILL 193. Senator Klindt seconded the motion and motion carried.

Senator Klindt then MOVED HOUSE BILL 193 BE CONCURRED IN AS AMENDED. The motion was seconded by Senator Mathers and motion carried. A roll call vote was taken, attached, which resulted in a vote of 7 "Yes" and 0 "No".

Following this the committee had a discussion on House Bill 448, previously heard. Representatives of the Department of Revenue also entered this discussion, including Mr. Groff, Mr. McGinnis and Mr. Slattery. The bill is at present in Sub-Committee and Senators McOmber and Mathers wish additional time to work on the bill.

CONSIDERATION OF HOUSE BILL 820: Representative Hodges was present to speak on his bill which called for increase in income to allow taxpayers to qualify for Class 8 property tax classification.

Chairman Nees asked for questions from the committee and also for other proponents or opponents to the bill.

CONSIDERATION OF HOUSE BILL 830: Representative Towe introduced his bill and said it is most difficult for some older or disabled persons to go to a Notary Public to have their tax classification applications notarized and his bill would allow them to make a sworn statement in lieu thereof.

Chairman Nees asked for proponents or opponents to the bill and there were no others. Members asked several questions and an amendment was proposed.

DISPOSITION: Senator Turnage MOVED TO ADOPT AMENDMENTS TO HOUSE BILL 830. The motion was seconded by Senator Mathers and motion was carried.

Senator Turnage MOVED HOUSE BILL 830 BE CONCURRED IN AS AMENDED. The motion, seconded by Senator Mathers, was carried.

Senator Turnage MOVED HOUSE BILL 820 BE NOT CONCURRED IN. Senator Mathers seconded the motion and motion carried. It was noted for the record Senator Vainio voted "No".

tions permitted. Nothing contained in this section shall serve to extend or authorize any millage in excess of the maximum millage permitted by law nor prevent the reduction of millage.

Section 9. **Effective date.** This act is effective on its passage and approval.

Approved March 25, 1974

CHAPTER NO. 287

AN ACT AUTHORIZING SELF-LIQUIDATION BY CITIES OF COSTS OF URBAN RENEWAL PROJECTS; AND AMENDING SECTIONS 11-3910 AND 84-4701.3, R.C.M. 1947.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 11-3921, R.C.M. 1947, which reads as follows:

11-3921. **Allocation of taxes.** Any urban renewal plan as defined in section 11-3901, R.C.M. 1947, may contain a provision or be amended to contain a provision that taxes, if any, levied on taxable property in an urban renewal area each year by or for the benefit of any city which has the power to levy a tax, shall, after the effective date of such provision, be allocated as follows:

(1) that portion of the taxes produced by the levies for such city upon the total sum of the assessed value of the taxable property in the urban renewal area as shown upon the assessment roll used in connection with the taxation of such property for such city last equalized prior to the effective date of the urban renewal plan shall be allocated to and when collected shall be paid into the funds of such city as taxes by or for such city on all other property are paid; and

(2) that portion of the levied taxes for such city each year in excess of such amount shall be allocated to and when collected, shall be paid into a special fund held by the city treasurer to pay the principal and interest on bonds, the issue of which is authorized by section 11-3910, R.C.M. 1947.

Section 2. There is a new section to be numbered 11-3922, R.C.M. 1947, which reads as follows:

11-3922. **Time when act applies.** The provisions of subsection 1 of section 1 [11-3921] of this act shall first apply to the assessment roll next following the enactment or amendment to the urban renewal plan authorizing the allocation of funds under this act.

Section 3. There is a new section to be numbered 11-3923, R.C.M. 1947, which reads as follows:

11-3923. **Disposition of unexpended funds.** All moneys remaining unexpended from the special fund created by this act after payment of all the principal and interest on such bonds shall be paid into the city's general fund.

Section 4. Section 11-3910, R.C.M. 1947, is amended to read as follows:

"11-3910. **Issuance of bonds.** (a) A municipality shall have the power to issue bonds from time to time in its discretion to finance the undertaking of any urban renewal project under this act, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans for urban renewal projects, and shall also have power to issue refunding bonds for the payment or retirement of such bonds previously issued by it. Such bonds shall not pledge the general credit of the municipality and shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the municipality derived from, or held in connection with, its undertaking and carrying out of urban renewal projects under this act; provided, however, that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution from the federal government or other source, in aid of any urban renewal projects of the municipality under this act.

(b) Bonds issued under this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall be subject only to the provisions of the Uniform Commercial Code. Bonds issued under the provisions of this act are declared to be issued for an essential public and governmental purpose, and, together with interest thereon and income therefrom, shall be exempted from all taxes.

(c) Bonds issued under this section shall be authorized by resolution or ordinance of the local governing body and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics, as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto.

(d) Such bonds may be sold at not less than ninety-eight per cent (98%) of par at public or private sale, or may be exchanged for other bonds on the basis of par: Provided, that such bonds may be sold to the federal government at private sale at not less than par and, in the event less than all of the authorized principal amount of such bonds is sold to the federal government, the balance may be sold at public or private sale at not less than ninety-eight per cent (98%) of par at an interest cost to the municipality of not to exceed the interest cost to the municipality of the portion of the bonds sold to the federal government.

(e) In case any of the public officials of the municipality whose signatures appear on any bonds or coupons issued under this act shall cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this act shall be fully negotiable.

(f) In any suit, action, or proceeding involving the validity or enforceability of any bond issued under this act or the security therefor, any such bond reciting in substance that it has been issued by the municipality in connection with an urban renewal project, as herein defined, shall be conclusively deemed to have been issued for such purpose and such project shall be conclusively deemed to have been planned, located, and carried out in accordance with the provisions of this act."

Section 5. There is a new section to be numbered 11-3924, R.C.M. 1947, which reads as follows:

11-3924. **Maximum term of bonds.** No bond for the payment of which the special fund described in section 1 [11-3921] is used may be issued for a longer term than twenty (20) years.

Section 6. Section 84-4701.3, R.C.M. 1947, is amended to read as follows:

"84-4701.3. **Allocation of all-purpose levy.** In the event the all-purpose levy method, provided for in section 84-4701.2, is followed in municipal financing, any municipality following it shall appropriate the levy to the several departments of the municipality in its annual budget and appropriation ordinance, or in other legal manner, as the governing body of such municipality shall deem best, *provided, however, that any municipality which has adopted an urban renewal plan, may allocate the funds raised by its levy within the urban renewal area, in accordance with the provisions of its urban renewal plan.*"

Section 7. There is a new section to be numbered 11-3925, R.C.M. 1947, which reads as follows:

11-3925. **Use of funds generated by bonds.** Money generated by the sale of bonds for which funds are allocated pursuant to section 1 [11-3921] of this act may be used by a city only for improvement or construction of streets, curbs, gutters, sidewalks, pedestrian malls, alleys, parking lots, sewers, waterlines or waterways.

Approved March 25, 1974

CHAPTER NO. 288

AN ACT TO PROVIDE FOR THE PAYMENT OF AN HONORARIUM OR ADJUSTED COMPENSATION TO EACH RESIDENT OF MONTANA IN MILITARY SERVICE IN THE VIETNAM AREA DURING THE VIETNAM WAR BETWEEN JANUARY 1, 1961, AND MARCH 31, 1973.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 77-2301, R.C.M. 1947, which reads as follows:

77-2301. **Definitions.** Terms used in this law have the meanings stated in this section unless the context clearly requires otherwise:

(1) "Vietnam War" means the period between January 1, 1961, and March 31, 1973.

(2) "Vietnam area" means the countries of Vietnam, Laos, Cambodia, and Thailand and the waters surrounding them.

(3) "Military forces" mean the United States army, navy, marine corps, air force, coast guard, and all other groups, branches, and services forming a part of the armed services under the control and subject to the discipline of the department of defense of the United States.

(4) "Military service" means service on active duty for other than training purposes by any person in any of the military forces at any time during the Vietnam War.

(5) "Person" means any man or woman.

(6) "Serviceman" means a person entitled to receive payments under section 2 [77-2302] of this law.

(7) "Resident of Montana" means a person who at the time of his entry into the military service had his residence in Montana. A person who on January 1, 1961, was serving on active duty in any of the military forces, and who at the time of his then last entry into such service made his home in Montana, and who was in the military service at some time during the Vietnam War, shall be deemed a resident of Montana unless, after such last entry and before entry into military service in such war, he had established and was then maintaining residence in some other state; and any such serviceman whose parents or surviving parent then resided in Montana shall be deemed a resident of Montana.

(8) "United States" means the area of the fifty (50) states and the District of Columbia, to high-water mark on their water boundaries.

(9) "Board" means the Board of Examiners.

Section 2. There is a new section to be numbered 77-2302, R.C.M. 1947, which reads as follows:

77-2302. **Purpose — honorarium granted.** (1) In recognition and appreciation of the valor and devotion of the persons who by their military service discharged the obligation of the state of Montana to contribute from its manpower to the defense of the republic in the prosecution of the Vietnam War, and in partial adjustment for the economic detriment suffered by them by reason of their service, the state of Montana hereby grants to each such person an honorarium, or adjusted compensation, in a sum to be computed as provided in this section.

(2) Each resident of Montana who was in military service at any time during the Vietnam War, and during part or all of the period of such service was in the Vietnam area, is granted the sum of eighteen